

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.263 OF 2018

(Subject :- Recovery)

DISTRICT : JALNA

Shri Baban S/o Deorao Dolzake)
Age-59 Years, Occ- Pensioner,)
R/o. Jaibhavani Colony, Mondha, Partur,)
Tq. Partur, Dist. Jalna.)...**Applicant**

V E R S U S

1. **State of Maharashtra** ,)
Through its Principal Secretary,)
Revenue and Forest Department,)
Mantralaya, Mumbai – 32.)
2. **The Divisional Commissioner,**)
Aurangabad.)
3. **The Collector,**)
Jalna, Tq. & Dist. Jalna.)
4. **The Sub-Divisional Officer,**)
Ambad, Tq. Ambad, Dist. Jalna.)
5. **The Tahsildar,**)
Tahsil Officer, Ghansawangi,)
Tq. Ghansawangi, Dist. Jalna.)Respondents.

Shri S.A. Deshmukh, learned Advocate for the Applicant.

Shri D.R. Patil, learned Presenting Officer for the Respondents.

CORAM : **B.P. Patil, VICE CHAIRMAN**

RESERVED ON : **19.06.2019.**

PRONOUNCED ON : **02.07.2019.**

ORDER

1. The Applicant has challenged the order dated 20.03.2018, passed by the Respondent No.3 i.e. Collector, Jalna dismissing his appeal and confirming the order dated 11.10.2017 passed by the Respondent No.4 i.e. Sub-Divisional Officer, Ambad, Tq. Ambad, Dist. Jalna imposing punishment on him in the departmental enquiry by filing the present Original Application.

2. The Applicant was serving as Talathi on the establishment of the Respondent No.3. In the year of 2016-2017, he was serving as Gaon Kamgar Talathi at Ukkadgaon Tq. Ghansawangi, Dist. Jalna. One Shri Pandharinath Sheshrao Atkal R/o village Shevgal Tq. Ghansawangi, Dist. Jalna filed complaint with the Tahsildar Ghansawangi alleging irregularities in compensation paid to the farmers who had been affected due to hailstorm. On the basis of his complaint, the Respondent No.5 i.e. the Tahsildar, Ghansawangi directed Circle Inspector, Ranjani and

Circle Inspector, Rani Unchegaon to make enquiry. Accordingly, the Circle Inspector, Ranjani and Rani Unchegaon made enquiry and submitted their report in that regard to the Tahsildar on 24.05.2014. On the basis of the report, a show cause notice has been issued to the Applicant on 23.05.2014. The Applicant had given reply to it on 28.05.2014. On the basis of the enquiry report submitted by the Circle Inspector, Rajani & Circle Inspector Rani Unchegaon, the Respondent No.4 i.e. Tahsildar submitted proposal to the Respondent No.4 i.e. S.D.O. to initiate the Department Enquiry against the Applicant. On the basis of proposal forwarded by the Respondent No.5, the Respondent No.4 issued suspension order of the Applicant on 05.06.2014. Thereafter, on 14.01.2015, he revoked the suspension and reinstated the Applicant on the post of Talathi and posted him at village Khapardeo Hiwara, Tq. Ghansawangi, Dist. Jalna. The S.D.O., initiated the departmental enquiry against the Applicant. The Applicant has submitted his written statement. Thereafter, an enquiry officer has been appointed. Enquiry Officer conducted the departmental enquiry No.1/2017 and submitted his report to the Respondent No.4, who is disciplinary authority. The S.D.O., passed the order dated 11.10.2017 on the basis of report of the enquiry officer and withheld one annual increment of the Applicant for one year and

also directed to recover the amount of Rs.3,95,000/- on account of loss caused to the Government. The Applicant has challenged the said order dated 11.10.2017 passed by the Respondent No.4 before Respondent No.3 i.e. Collector, Jalna by preferring an appeal. The Respondent No.3, Collector, Jalna had not considered the grounds raised by the Applicant and decided the appeal on 20.03.2018 and dismissed the same and upheld the order passed by the Respondent No.4 on 11.10.2017.

3. It is contention of the Applicant that both the disciplinary authority and appellate authority had not considered the evidence in enquiry with proper perspective. They had not considered the facts that the Applicant had not made any mistake and irregularity in preparing Panchanamas regarding the loss caused to the farmers. It is his contention that the Village Officer (Gramsevak) and Agriculture Officer were present at the time of preparing Panchanamas. But no action had been initiated against them but he was wrongly held responsible. It is his contention that the enquiry has been initiated against him due to pressure of the complainant, who belongs to political party. It is his contention that the order directing recovery of Rs.3,95,000/- from him and his pensionary benefit is illegal and therefore, he prayed to allow the

Original Application and to quash the impugned order passed by the Respondent No.4 and 3 respectively.

4. The Respondent Nos.3 & 4 have filed their affidavit-in-reply and resisted the contentions of the Applicant. They have not disputed the fact that the Applicant was serving as Talathi at village Ukkadgaon, Tq. Ghansawangi in the year 2016-2017. They have not disputed the fact that on the basis of enquiry report submitted by the Circle Inspector, the Respondent No.5 proposed the departmental enquiry against the Applicant and the Respondent No.4 i.e. S.D.O., accordingly initiated the enquiry against the Applicant. They have not disputed the fact that on conclusion of the D.E., the Applicant had been held guilty and accordingly he was punished by the Respondent No.4. They have not disputed the fact that the Respondent No.3 i.e. the Collector, Jalna dismissed the appeal preferred by the Applicant challenging the order passed by the Respondent No.4 by order dated 20.03.2018. It is their contention that because of the hailstorm heavy damage has been caused to the farmer in Ghansawang Tq. in the year 2016-2017. Therefore, the Applicant was directed to prepare Panchanamas of the lands and damages caused to the fruit crops and submit his report so as to give to compensation to the farmers affected due to hailstorm. The said job was entrusted to the Applicant.

Accordingly, he has to make survey as regards damage caused to fruit crops of the farmers. The Applicant has to follow the guidelines issued by the Government from time to time in that regard. It was his duty to include the names of the affected farmers in the list of beneficiaries who are eligible for getting compensation. But the Applicant had not included the names of the 9 farmers of village Sarafgavan whose crops had been damaged due to hailstorm. Not only this, but he had included the names of 23 farmers in the list of beneficiaries, though they had not planted fruit bearing trees in their lands. Not only this but he had included names of 15 farmers of village Shevgal in the list of the beneficiaries though they had not planted fruit bearing trees in their lands. Because of the wrong report submitted by the Applicant, an amount of Rs. 3,95,000/- had been disbursed to the farmers who had not planted fruit bearing trees in their lands. It is their contention that it was duty of the Talathi to make Panchanama and prepare list of the beneficiaries as per the existing facts. But the Applicant had prepared incorrect list of the beneficiaries. Therefore, the enquiry has been initiated against the Applicant. After giving an opportunity of hearing to the Applicant, the enquiry was conducted and Applicant was held guilty of the charges leveled against him. Consequently, he was punished by the Respondent No.4 by order

dated 11.10.2017. It is their contention that the impugned order passed by the Respondent No.4 is not in violation of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 and there is no illegality in it. It is their contention that the Respondent No.3 has decided the appeal preferred by the Applicant challenging the order dated 11.10.2017 passed by the Respondent No.4 in the departmental enquiry. After giving an opportunity of hearing to the Applicant, the same was dismissed as there was no illegality in the impugned order passed by the Respondent No.4 on 11.10.2017. It is their contention that the impugned order passed by the Respondent No.4 on 11.10.2017 and the order passed by the Respondent No.3 dated 20.03.2018 are legal, valid and therefore, he prayed to reject the Original Application.

5. The Applicant has filed an affidavit-in-rejoinder to the Affidavit-in-reply of the Respondent Nos.3 & 4. It is his contention that he had prepared Panchanama and prepared list of the beneficiaries accordingly, in presence of the Agricultural Officer and Village Officer(Gramsevak). Not a single person has been deprived from getting subsidy on account of loss caused to their crops due to hailstorm. It is his contention that the complainant, who made complaint against him is politically motivated person and filed the fake complaint against him to harass him. It is his contention that

the amount has been disbursed to the agriculturist and therefore, the same ought to have been recovered from them. The Respondent without considering the said aspect passed the impugned order and directed to recover the amount of Rs.3,95,000/- from him. It is contention that the said recovery has been ordered after his retirement from his pensionary benefits by the Respondents. The fact in present case is identical to the facts in case of ***State of Punjab & Ors. Vs. Rafiq Masih (White Washet) etc. decided on 18.12.2014*** reported in ***2014(4) SCC 334*** and therefore, he prayed to quash and set aside the impugned order.

6. I have heard Shri S.A. Deshmukh, learned Advocate for the Applicant and Shri D.R. Patil, learned Presenting Officer for the Respondents. I have perused the documents on record.

7. Admittedly, the Applicant was serving as Talathi at Ukkadgaon Tq. Ghansawangi, Dist. Jalna in the year 2016-2017. Admittedly, crops of the farmers of village Sarafgavan and Shevgal had been affected due to hailstorm and therefore, the Government directed Applicant to make survey of the lands and loss caused to the crops of the farmers. Accordingly, the Applicant visited the lands affected by hailstorm and made Panchanamas regarding the loss caused to the crops of the

farmers and prepared the list of the beneficiaries. On the basis of list of the beneficiaries prepared by the Applicant, subsidy/ compensation had been granted to the agriculturist who had been affected due to hailstorm. Admittedly, One Shri Pandharinath Sheshrao Atkal R/o village Shevgal Tq. Ghansawangi, Dist. Jalna filed complaint with the Tahsildar, Ghansawangi alleging the irregularities in disbursement of compensation to the farmers affected due to hailstorm. On the basis of complaint of Shri Pandharinath Sheshrao Atkal, the Tahsildar, Ghansawangi directed Circle Inspector, Rajani and Circle Officer, Rani Unchegaon to make enquiry. Both the Circle Inspectors of Rajani and Rani Unchegaon conducted the enquiry and submitted report to the Tahsildar. During the enquiry they noticed irregularities in the report submitted by the Applicant. As per the report, names of 15 farmers of Village Shevgal had been included in the list of beneficiaries on the ground that their fruit bearing trees had been affected due to hailstorm though they had not planted the fruit bearing tress in their lands and therefore, amount of Rs.1,20,000/- has been wrongly disbursed to them. Likewise, 23 names of the farmers of village Sarafgavan had been included in the list of beneficiaries on the ground that

their fruit bearing tress had been affected due to hailstorm though they had not planted the fruit bearing tress in their lands and therefore, an amount of Rs.2,75,000/- had been disbursed to them. 9 farmer of the village Sarafgavan were affected due to hailstorm but their names had not been included in the list of beneficiaries. Therefore, they have been deprived of from getting compensation. Because of the irregularities made by the Applicant a departmental enquiry was directed against him and charge sheet was issued to him. The departmental enquiry was conducted by enquiry officers and the Applicant held guilty in the allegation levelled against him. On the basis of said enquiry report, the Respondent No.4 who is disciplinary authority of the Applicant, passed the impugned order dated 11.10.2017 and withheld one annual increment of the Applicant for one year and also directed the accused to deposit an amount of Rs.3,95,000/- towards the loss caused to the Government. The said amount has been recovered from the Applicant from his pensionary benefits. Admittedly, the Applicant retired w.e.f. 34.1.2018.

8. Learned Advocate for the Applicant has submitted that the Applicant was not solely responsible for the Panchanama. He has submitted that the Applicant had prepared

Panchanamas regarding damages caused to the crops of the farmers due to hailstorm as per the direction of the Government by visiting their lands. He has prepared the Panchanamas as per the directions, in presence of the Village Officer (gramsevak) and Agriculture Officer. He has argued that the Applicant was not solely responsible for the loss caused to the Government. He has submitted that no action has been taken against the Village Officer and Agriculture Officer who were present there at the time of preparing Panchanama. But he was wrongly held responsible for the irregularities and directed to pay the amount of Rs.3,95,000/-. He has submitted that the Respondents ought to have recovered the said amount from the farmers to whom it has been disbursed though they were not illegible. He has submitted that the Respondents had not considered all these aspects and wrongly passed the order dated 11.10.2017. He has argued that the Respondent No.3 had also not considered the ground raised by the Applicant in the appeal and wrongly dismissed the appeal on 20.03.2018. He has submitted that both the impugned orders are not in accordance with the provision of law and therefore, he prayed to quash and set aside the said orders by allowing the Original Application.

9. Learned P.O. for the Respondents has submitted that the Applicant had not prepared the Panchanama as per the situation and facts prevailing. He included names of some of the farmers who had not planted the fruit bearing tress in their lands and got compensation/subsidy from the Government. The Applicant had not included the names of some of the farmers of village Sarafgavan in the list of beneficiaries though they were affected and therefore, those agriculturists were deprived of from getting the compensation.

10. Learned P.O. for the Respondents also submits that the Applicant had wrongly included names of the some farmers of village Sarafgavan and village Shevgal in the list of beneficiaries though they had not planted fruit bearing tress in their lands. Therefore, total loss of Rs.3,95,000/- had been caused to the Government. He has submitted that the charge sheet has been issued to the Applicant and thereafter, enquiry has been conducted by the enquiry officer. Opportunity of hearing was given to the Applicant to defend himself and thereafter the Respondent No.4 passed the impugned order dated 11.10.2017. He has submitted that the Applicant had admitted the allegations

made against him as regards charges at Sr.No.2,3 & 4. Thereafter, the impugned order had been passed. He has justified the order passed by the Respondent No.4 dated 11.10.2017.

11. He has submitted that the Respondent No.3 has also considered the ground raised by the Applicant in appeal and decided the appeal on 20.03.2018. He has argued that there is not illegality in the orders passed by the Respondent No.3 and 4 and therefore, he prayed to reject the Original Application.

12. On perusal of the record it reveals that the Applicant was entrusted with the work of visiting the lands of the farmers whose fruit bearing trees had been affected due to hailstorm and preparation of the panchanamas. Accordingly, the Applicant, who was in charge of satta Ukkadgaon of village Sarafgavan and Shevgal, prepared Panchanama of the lands of fruit bearing trees affected due to hailstorm in presence of Village Officer (Gramsevak) and Agriculture Officer. Accordingly he had submitted the list of beneficiaries. On the basis of his report the compensation/subsidy had been granted to beneficiaries. One Shri Pandharinath Sheshrao Atkal R/o village Shevgal Tq. Ghansawangi, Dist. Jalna filed complaint with the Respondent No.5

alleging for irregularities in disbursement of amount. Tahsildar directed an enquiry of damage and directed Circle Officers Rajani and Rani Uchegaon to make enquiry. Accordingly, Circle Inspectors made enquiry and submitted their report stating that there were irregularities and illegalities made by Applicant while preparing list of the beneficiaries. He had included names of some farmers in the list of beneficiaries though they had not planted fruit bearing trees in their lands and they were not eligible for getting compensation. The Applicant had not included names of some of the farmers in the list of beneficiaries though their fruit bearing trees were affected due to hailstorm. On the basis of report submitted by the enquiry officers, a departmental enquiry was initiated against the Applicant. Applicant was given an opportunity of hearing in the enquiry. After conclusion of enquiry, enquiry officer submitted the report and held the Applicant guilty of the charges levelled against him. On the basis of enquiry report, the Respondent No.4 issued show cause notice to the Applicant. The Applicant had given reply to the said show cause notice. The Respondent No.4 thereafter, considering the reply given by the him held the Applicant guilty and imposed punishment by passing the impugned order dated 11.10.2017 and withheld one annual increment of the Applicant for one year and also directed to recover the amount of Rs.3,95,000/- from the

Applicant as loss has been caused to the Government due to wrong report submitted by the Applicant. Record shows that the Respondent No.4 had considered the report of the enquiry officer and after considering material placed on record held the Applicant guilty and punished him accordingly. There are no irregularities and illegalities in the order passed by the Respondent No.4 on 11.10.2017. Because of the wrong report and negligence on the part of the Applicant, an amount of Rs.3,95,000/- was wrongly disbursed to the Agriculturist who were not eligible to get compensation and whose crops had not been affected due to hailstorm. Due to the incorrect report submitted by the Applicant some of the farmers were deprived of from getting compensation as their names had not been included in the list of beneficiaries though they were eligible for getting the compensation. There was negligence on the part of the Applicant in discharging the duties. Therefore, the Applicant was held guilty of the charges leveled against him in view of the provisions of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979. I do not have find any illegality in the impugned order.

13. The Respondent No.3 had been given an opportunity of hearing to the Applicant. He scrutinized the documents filed on record and the enquiry report in the departmental enquiry and

order passed by the Respondent No.4 dated 11.10.2017. He did not find any illegality in the order passed by the Respondent No.4 and therefore, he dismissed the appeal on 20.03.2018.

14. On going through the order dated 20.03.2018, it reveals that the Respondent No.3 had recorded sound reasons while dismissing the appeal of the Applicant. In my view there is no illegality in the order dated 20.03.2018 passed by the Respondent No.3. Therefore no interference is called for therein. Both the orders dated 11.10.2017 and 20.03.2018 are legal one. Therefore, no interference is called for. There is no merit in the Original Application. Hence, the Original Application deserves to be dismissed.

15. In view of the discussion in the foregoing paragraph, the Original Application stands dismissed. No order as to costs.

(B.P. PATIL)
VICE CHAIRMAN

Place:- Aurangabad

Date :- 02.07.2019

Sas. O.A.No.263 of 2018.Recover. BPP(VC)